

REMARKS

I. Introduction

Claims 12 and 14 to 22 are pending after cancellation of claim 13. Claims 12, 14, 15 and 21 have been amended. In view of the following remarks, Applicant respectfully submits that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO-1449 paper, and cited references.

II. Rejection of Claims under 35 U.S.C. § 103(a)

Claims 12 to 14, and 22 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application No. 2002/0135490 (“Opitz”) in view of U.S. Patent No. 6,501,502 (“Chen”). Claim 13 has been canceled. In view of the following explanation, withdrawal of the rejection is requested.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a *prima facie* case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, the Examiner must show, *inter alia*, that there is some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the references, and that, when so modified or combined, the prior art teaches or suggests all of the claim limitations. M.P.E.P. §2143. In addition, as clearly indicated by the Supreme Court, it is “important to identify a reason that would have prompted a person of ordinary skill in the relevant field to [modify] the [prior art] elements” in the manner claimed. See KSR Int’l Co. v. Teleflex, Inc., 82 U.S.P.Q.2d 1385 (2007). In this regard, the Supreme Court further noted that “rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Id., at 1396. To the extent that the Examiner may be relying on the doctrine of inherent disclosure in support of the obviousness rejection, the Examiner must provide a “basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent

characteristics necessarily flow from the teachings of the applied art.” (See M.P.E.P. § 2112; emphasis in original; see also Ex parte Levy, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)).

Independent claim 12 has been amended to incorporate the features previously recited in claim 13, i.e., amended claim 12 now recites, in relevant parts, that “the light source can be activated when ambient light is insufficient for the image sensor, and the smoke detector recognizes an intensity of the ambient light based on a signal from the image sensor.” Although the Examiner cites paragraphs [0013], [0014] and [0027] of Opitz as allegedly disclosing the feature that “the smoke detector recognizes an intensity of the ambient light based on a signal from the image sensor,” the cited paragraphs clearly do not support the Examiner’s contention. Paragraph [0013] of Opitz merely discloses the device light source and the optical device, but there is no mention of ambient light; paragraph [0014] merely states that “the light source is connected with a computing device and is controllable by it,” and that “fluctuations of the illumination . . . caused by interference radiation can be eliminated by computation,” but there is no suggestion that “the smoke detector recognizes an intensity of the ambient light based on a signal from the image sensor”; and paragraph [0027] merely discloses the device light source and the optical device, but there is mention of ambient light. In addition, Chen clearly fails to teach or suggest the above-recited features of amended claim 12. Therefore, claim 12 and its dependent claim 22 are not rendered obvious by Opitz and Chen.

Claim 14 has been amended to recite, in relevant parts, “an ambient light sensor for measuring an intensity of the ambient light.” Although the Examiner once again cites paragraphs [0013], [0014] and [0027] of Opitz as allegedly disclosing the above-recited claimed feature, these cited paragraphs clearly do not mention anything about ambient light sensor, let alone measuring an intensity of the ambient light, as discussed above. In addition, Chen clearly fails to teach or suggest the above-recited features of amended claim 14. Therefore, claim 14 is not rendered obvious by Opitz and Chen.

Claims 15 and 21 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Opitz in view of Chen, and in further view of U.S. Patent No. 5,313,202

(“Hansman”). Applicants submit that this rejection should be withdrawn for at least the following reasons.

Claims 15 and 21 depend from claim 12. As explained above, the overall teachings of Opitz and Chen do not render obvious parent claim 12. In addition, Hansman clearly fails to overcome the deficiencies of Opitz as applied against claim 12. Accordingly, the overall teachings of Opitz, Chen and Hansman cannot render obvious claims 15 and 21.

Independent of the above, amended claim 15 recites that the “the image sensor is configured for monitoring an area located at a distance of 5 cm to less than 15 cm from the image sensor,” which feature is clearly not taught by the cited sections of Hansman. Although the Examiner cites Hansman col. 5, lines 43-53 and Fig. 4 (element 320) as disclosing the above-recited claimed feature, this cited section merely discloses a “focal length of 7.5 cm” (which is the distance between the detector 320 and the lens 330 for focusing an image of an object at infinity), and that focus may be adjusted “from 15 cm to infinity,” which clearly fails to teach or suggest the claimed feature that “the image sensor is configured for monitoring an area located at a distance of 5 cm to less than 15 cm from the image sensor.” For at least the additional reason, claim 15 and its dependent claim 21 are allowable over the applied references.

Claims 16 and 17 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Opitz in view of Chen, and in further view of U.S. Patent No. 6,958,689 (“Anderson”). Claims 16 and 17 depend from claim 12. As explained above, the overall teachings of Opitz and Chen do not render obvious parent claim 12. In addition, Anderson clearly fails to overcome the deficiencies of Opitz as applied against claim 12. Accordingly, the overall teachings of Opitz, Chen and Anderson cannot render obvious dependent claims 16 and 17.

Claim 18 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Opitz in view of U.S. Patent No. 6,097,279 (“Gow”). Claim 18 depends from claim 12. As explained above, the disclosure of Opitz (either individually or in combination with Chen) does not render obvious parent claim 12. In addition, Gow clearly

fails to overcome the deficiencies of Opitz as applied against claim 12. Accordingly, the overall teachings of Opitz and Gow cannot render obvious dependent claim 18.

Claim 19 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Opitz in view of U.S. Patent No. 6,049,287 ("Yulkowski"). Claim 19 depends from claim 12. As explained above, the disclosure of Opitz (either individually or in combination with Chen) does not render obvious parent claim 12. In addition, Yulkowski clearly fails to overcome the deficiencies of Opitz as applied against claim 12. Accordingly, the overall teachings of Opitz and Yulkowski cannot render obvious dependent claim 19.

Claim 20 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Opitz in view of Chen, and in further view of U.S. Patent No. 6,150,943 ("Lehman"). Claim 20 depends from claim 12. As explained above, the teachings of Opitz and Chen do not render obvious parent claim 12. In addition, Lehman clearly fails to overcome the deficiencies of Opitz and Chen as applied against claim 12. Accordingly, the overall teachings of Opitz, Chen and Lehman cannot render obvious dependent claim 20.

CONCLUSION

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited.

Respectfully submitted,

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